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AUTHOR Zeringo, Thomas A.; Baldwin-LeClair, Jack
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ABSTRACT

The past 20 years have witnessed a significant metamorphosis with regard to clinical gender neutrality within the classrooms of public schools. However, the beginning and formative years of a child's formal entry into public school are overseen by female teachers. Men comprise only 12% of the teaching force in elementary school, and this 12% of men is clustered in upper elementary grades 4 through 6. This paper reviews the literature on discriminatory hiring practices toward male elementary school teachers and discusses the reasons for the perception of discrimination. The paper's overall conclusion is that, there is discrimination in hiring male teachers. The reasons for this bias may take overt or covert form, and additionally, this bias is rooted in a sociological and historic mindset. However, the paper finds that, aside from the external bias factors, men must assume a portion of the blame for their limited representation in numbers as elementary school teachers. Contains 23 notes, 10 references, and attached informational materials. (BT)

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The Paucity of Male Elementary School Teachers:

Discriminatory Hiring Practices and Other Contributing Factors

Presented at The Tenth Annual Law Related Education Conference

Sponsored by The New Jersey State Bar Foundation

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Thomas A. Zeringo, M.A.

Elementary Teacher, Emerson Public Schools, Emerson, New Jersey
Member Law Related Education Committee, N.J. State Bar Foundation

Jack Baldwin-LeClair, M.A. Ed.S. J.D.
Associate Professor Montclair State University, Upper Montclair, N.J.
Department of Legal Studies

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Jack Baldwin-LeClair

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Introduction

Since 1980 schools and school districts have been extremely sensitive to gender issues in public education. School districts have been compelled by public pressure, policy, and the law to depict girls in textbooks in astereotypical roles. The laws regulating equal opportunity have been refined and fortified. A general public awareness of the needs of students of both sexes to "compete" on a "level playing field" has been encouraged, if not mandated. Children of color and of racial or ethnic minority have also been requisite visuals in textbooks. Indeed, the past twenty years has witnessed a significant metamorphosis with regard to clinical gender neutrality within the classrooms of public schools.

The question remains, however, that for the beginning and formative years of a child's formal entry into the public schools (Pre-Kindergarten to grade 6) who is seen as dispensing that information? Santiago states: "Nationally men constitute thirty per-cent of the total teaching workforce and only twelve per-cent at the elementary level."[1] The data receives numerical support from Allan, who states: "While women account for seventy per-cent of all school teachers nationally, gender disproportions are even more striking at the elementary level, where men nationally comprise only twelve per-cent of the work force."[2] The studies cited are recent abstracts. Additionally it should be noted that while the statistics aver that twelve per-cent of the "elementary" teachers are men, it is clear that the per-cent is skewed within the parameters of the defined elementary school. More of the men within the twelve per-cent teach elementary grades four through six (or eight) than teach Pre-Kindergarten through grade three. The statistic is "back loaded". Allan: "...the twelve per-cent are clustered in upper elementary grades four through six and in

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[1] Anthony Santiago, "Male Early Childhood Montessori Teachers: Why They Choose to Teach," U.S. Department of Education, Education Resources Information Center: ERIC, 1999, 4.

[2] Jim Allan, "The Persistent Fewness of Men Elementary Teachers: Hypothesis from Their Experiences," Paper presented at the Annual Meeting of the Midwest Sociological Society (Iowa), 1997, 3.

many elementary schools we find a single male teacher. In a word, men working in *primary classrooms* (emphasis added) are rare."[3] A discussion of the reasons follows.

Discrimination in Hiring Practices Toward Male Elementary School Teachers and Male Applicants for Elementary School Teacher Positions

There are different types and levels of discriminatory hiring practices. Some are blatant as evidenced by examining profiles of appointments. These become manifest in longitudinal studies of a district's final candidates and subsequent hires. There are also subtle and latent discriminatory practices that are based more on perceptions. That is, a certain peremptory mindset by hiring authorities to "slot" certain "profiled" individuals with respect to gender, age, religion, and/or race. The latter is more pernicious. The latter if continued over time will form the basis of empirical data, which may substantiate a claim of bias. Discrimination against a demographic group is wrong. Discrimination in any segment of a public sector employment practice is exponentially more egregious. So now, are men who are employed as elementary school teachers discriminated against? The second and more appropriate question, are male candidates for elementary school teacher positions discriminated against because of their gender? The first question may appear oxymoronic. If a male teacher *is* employed as an elementary school teacher, how then is that discrimination? Male teachers placed in elementary grades solely because of their gender may be tokens and that is a form of discrimination. If there are few male teachers on the elementary level of a given school (district) and significant and meaningful attempts have not been made to attract quality men, over time, that gender exclusion may lead to what may be properly called a "hostile work environment" and that condition is a progenitor of workplace discrimination. The second question is more intriguing and requires a more detailed and probative response.

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[3] Ibid., 5.

Discrimination

Within the social schema of the elementary school, the hiring of men has been problematic. There are many reasons. Some would appear obvious and some are masked. The mindset of hiring authorities within schools to hire men in the elementary grades may be described, at best, as ambivalent, tentative, and cautious. Galbraith contends: "Men have not only been left out of early childhood teaching positions (with the possible exception of principals), but have been actively dissuaded from entering the field (Levine, 1977). Kaplan (1947) indicated that men were out of place in lower grade education, and Tubbs (1946) felt that men in elementary education should be viewed in elementary education as morally suspect."[4] Notwithstanding the passage of time the linear historical reference suggests a period mind set and perspective that, to some degree, is still in evidence today. Some matters within the systemic labyrinth in education move slowly and often tend to draw upon "what was" or "is" rather than of "what should be." Curricula, as well, are often so reflectively structured.

In a 1984 study Seifert stated: "Five of the ten men reported events or situations that they considered discrimination on the basis of gender. Unlike the positive distractions described above, these events closed down operations for the men, rather than expand them. One man, for example, reported that a former principal of his had refused to let him teach nursery in the school, although the principal had been willing to let him teach grade 2."[5] The study states that 50% of the surveyed subjects experienced some form of discrimination based on their gender. Subjectivity and an absence of a specific analysis of the reported events make it difficult to draw conclusions. However it

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[4] Michael Galbraith, "Understanding Career Choices of Men in Elementary Education," Journal of Education Research 85, no. 4 (March-April 1992): 247.

[5] Kelvin Seifert, "Career Experiences of Men Who Teach Young Children," Paper presented at the Annual Meeting of the American Education Research Association (68th New Orleans, La.) April 23-27, 1984, 7.

was once stated that the definition of a grievance is, if you "feel" you have one, you do.[6] The more interesting item of note is that the author characterizes the complaints as discriminatory within his reporting text, thus raising the bar from ethically suspect to illegal. The selection of the descriptor, "discrimination" rather than the more benign (and perhaps inaccurate) terms such as preference, choice, or option goes beyond what King suggests as perceptions. "A public perception is that men who teach primary grades are often either homosexuals, pedophiles, or principals (in training). These commonly held, but seldom-voiced presuppositions have had a strong impact on men's decisions to teach young children. Furthermore, such perceptions insure that the men who do choose to be primary teachers are frequently seen as suspect. While the rhetoric from the education culture overtly entices young men to consider elementary teaching, we covertly monitor those male teachers who aren't married, and who 'act funny'."[7] An interesting observation is that the author presented the position and the anecdotal comments within the most recent ten years (1994).

Supporting King's assertions, Santiago, citing Seifert, concluded in a recent study (1999): "In theory most people favor increasing their numbers (men in elementary schools), but in practice many of us do not really welcome real men when they actually express an interest in working with young children. One way that men have felt unwelcome in the profession is through their experience of prejudice as a result of their administrators and female colleagues."[8]An earlier section made mention of a "hostile work environment" as an integrative dimension of discrimination. Although it is more

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[6] More precisely Elkouri quotes Arbitrator Coffey as stating, "Whether a man has a grievance or not is primarily his own feeling about the matter. Generally speaking, if a man thinks he has a grievance, he has a grievance." : in Elkouri and Elkouri. How Arbitration Works, 5th ed. (Washington, D.C.: The Bureau of National Affairs, 1997), 217.

[7] James R. King, "Uncommon Caring: Primary Males and Implicit Judgments," Unpublished paper, 1994: 4.

[8] Santiago, 5.

difficult to sustain this allegation (because of the subjective essence of "feeling unwelcome"), a hostile work environment is discriminatory. It will produce a less than desired work product by **ALL**, because **ALL** will perceive its malevolence. Santiago reports: "One substitute teacher explained an experience he had with a girl in a classroom he was covering. The girl asked, "You're the teacher? You're so silly. Only women are teachers."[9] Young children inculcate that the adult who is responsible for their daily requirements in the classroom is **THE TEACHER**. The teacher is the authority figure. If young children do not *see* men as teachers or authority figures in schools (excepting, perhaps, as the school's ultimate authority-the principal), it is easy to understand how young children would not be able to assimilate **MEN** as **TEACHERS**.

Allan states: "Analysis of men's experiences in getting hired revealed that male principals, influenced by parent and public opinion, hired men as tokens (signaling at least minimum attention to gender balance among teachers), as role models, as needed coaches, and as allies and friends in otherwise all female institutions. Beneath these reasons to hire men, however, men's comments revealed some principals' ambivalence and even opposition to hiring them as teachers."[10] Hiring men as a gender alliance is non-meritorious. In fact, these hiring criteria reject by their printed omission the most powerful argument to hire anyone...qualifications!

Coulter noted in a 1993 study of male elementary teachers that: "Some men found themselves welcomed enthusiastically by hiring committees and colleagues: others sensed an unspoken suspicion about sexual orientation. 'Why do you want to teach elementary school?' Interviewers asked, but in tones that suggested the real question was, 'Is there something wrong with you?'."[11] The author continues: "Such references to

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[9] Ibid.

[10] Allan, 7.

[11] Rebecca Priegart Coulter and Margaret McNay, "Exploring Men's Experiences as Elementary Schoolteachers," Canadian Journal of Education 18, no. 4 (Fall 1993): 403. In the interest of disclosure this

sexual orientation hint at unfortunate misconceptions about men, masculinity, and homosexuality, which the men resented."[12] Such an interrogatory in the State of New Jersey would violate the Civil Rights of an individual. The New Jersey Law Against Discrimination makes it illegal for a labor organization to discriminate in its employment practices on the basis of "race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation or sex of any individual..."[13] Therefore it may be proffered that either gender who chooses an *alternate lifestyle* or domestic living arrangement shall enjoy protected status on the basis of that lifestyle and shall not be rejected for employment or be otherwise classified or denied opportunities within the workplace solely based on that choice. On the Federal level a parallel cite is 42 U.S.C.A.s.2000e-2.[14] The New Jersey statute is considerably more expansive.

Coulter concluded, in part, that: "Valued as that rare commodity, men in elementary teaching, their motives, abilities, and sexuality were nonetheless often viewed with suspicion."[15]

Logic and reason dictate that the substantial minority of men as elementary school teachers cannot be explained entirely by external factors such as discrimination. Discrimination, bias, and stereotyping are evident in hiring practices but they are not exclusive reasons for the problem. The perceptions of hiring authorities and their preferences are ectogenous reasons. Men are responsible, in part, for not pursuing careers as elementary teachers. They are not in abundance within the hiring pool. The reasons are complex. These reasons are endogenous. Endogenous reasons are those which explain

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was a Canadian study although generic parallels do apply. The references are just as compelling and for all intents and purposes the border is artificial and not of consequence.

[12] Ibid.

[13] N.J.S.A. 10:5-12 et seq. Appended as supplement 1 for ease of reference.

[14] 42 U.S.C.A. s2000e-2 appended, in part, as supplement 2 for ease of reference. Also appended as Supplement 3 is a portion of the Equal Employment Opportunity Commission poster #EEOC-P/E-1.

[15] Coulter, 411.

why men choose not to enter elementary classrooms as teachers and which emanate from within themselves without deference to other causal factors.

Why Men Have Not Chosen Careers As Elementary School Teachers

There are many reasons which, when understood in tandem with the discrimination factors as offered within this text, explain why men have not pursued careers as elementary school teachers. Clearly, within the past decade the economy of the country has been exceptional. There has been an economic boom especially in the computer and technology related industries. Young men and women have opted for careers in computer specialty industries. Quite naturally this diversion of ALL potential education majors in colleges and universities has had an impact on the available candidate pool. If the number of men who sought elementary teaching positions was slight in the early 1990's, it has become more so in the year 2000 because of the attraction of young people to private sector computer-related employment positions. This coupled with increasing student enrollments, certain required curricula, and the retirements of the 1960's and 1970's teaching staff has created at least a regional need for some teachers, especially within some specialized subject areas.[16] In essence many young people within the past decade who have had an interest or skill in computer related industries have opted for that career opportunity with its promise of lucrative salaries.

Santiago explains that other than the discrimination factor men have not opted for careers as elementary school teachers for the following reasons (as abstracted):

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[16] Recent articles have alluded to impending regional teacher shortages. A sampling includes: Ann E. Morrow, "State Faces A Teacher Shortage," 3 July 2000, accessed on 12 February 2001, on-line, available from http://www.concordmonitor.com/stories/front0400/mon_teacher_shortage.shtml; Associated Press, "Teacher Shortage Blamed on Low Pay," 21 June 1999, accessed on 12 February 2001, on-line, available from http://www.nabe.org/press/reprints/990621e.html; "Coping With Teacher Shortages," 11 January 2000, accessed on 12 February 2001, on-line, available from http://bebeyond.com/LearnEnglish/DailyReadings/Opinions/TeacherShortages.htm.

1. "Some men may feel that teaching young children is not a masculine job and think it is best suited for women."
2. "There were concerns mentioned of being labeled a pedophile, and fear of being accused of sexual abuse of children."
3. "Others express a concern for having their motives to teach suspected."[17]

Santiago's analysis receives corroborative support from King who states; "When a male does choose to break the social tabu of working with women, there are serious consequences to be paid. "Primary Male" (or primary male teachers) has been so crafted that it implicitly includes negative low prestige features, such as 'feminine', 'homosexual', and 'pedophile'. These cultural and semantic loadings on the male primary teacher are, in my opinion, why the voices of these professionals are muted."[18] Therefore men have been accultered to believe that in addition to, and perhaps because of their choice to co-work with a plurality of women, they will endure or suffer negative internal feelings. These may be rational or irrational emotional tendencies coming from within, but nevertheless very real to the subject.

Within a school's sub-culture the status of an elementary school teacher usually does not connote the same rank as a secondary teacher. There are many reasons to dispute the claim, however its existence cannot be summarily dismissed. The elementary school teacher is a "generalist" and the secondary teacher is a "specialist" having a teaching certificate within a defined subject area. It may be that this is viewed as more cerebral or intellectual. Elementary teachers will dispute that perception. They will argue their "specialty" is the development of the child. However valid or invalid the perceptions and the counter arguments, it is an embedded notion. Perhaps a parallel may be made to the medical field. A specialized branch of surgery is generally viewed as more prestigious

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[17] Santiago, 4-5.
[18] King, 12.

than internal medicine, not withstanding the fact that the argument may be comparing "apples and oranges." Seifert explains: "One possible answer is that early childhood teaching lacks status *within education and among occupations generally* (emphasis added), and therefore, discourages many males from entering the field."[19] Men, therefore, may feel they will not achieve peer recognition as elementary school teachers within the profession, although they might as secondary specialists.

Men have placed different sorts of pressures upon themselves as elementary school teachers. Allan states: "They sensed others' conflicting definition of the male role model itself: an axis of masculinities arrayed between the disciplinarian surrogate father engaged only in unfeminine activities, or the nurturing empathic companion of children. Men revealed themselves steering a course between equally dangerous extremes, having witnessed other men who erred in their navigation and "raised questions" or were let go."[20] The conflicting nature of the male elementary teacher and his role modeling abilities have also been a debilitating factor as to why men have, unto themselves, not entered elementary classrooms.

Women have had a formidable hold on elementary education. Coulter states: "Indeed, Acker (1983) has suggested that female primary teachers, having carved out an area of influence, may "(hold) on to it as one of the few arenas in which they (can) exert any power, even at the expense of further reinforcing stereotypes about women's sphere."[21] Men have not challenged that "sphere". Corroborating the previous position, Allan states: "Like principals, women teachers assert control over the work of men elementary teachers. This control is based on the power of women's relative numbers, their seniority, and the cultural traditions of their especial suitability in working with

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[19] Seifert, 3.

[20] Jim Allan, "Anomaly As Exemplar: The Meanings of Role-Modeling for Men Elementary Teachers," unpublished paper, 1994: 15.

[21] Coulter, 405-406.

children. Men elementary teachers perceived women as "gatekeepers," whose approval and cooperation were essential to their survival on the job."[22] Again, men as a class and unto themselves without factoring the external issues into the equation have not challenged that paradigm.

There is some evidence to suggest that older men who enter the education profession as a second career are received with some qualifications. Freidus comments about men who enter elementary education as a second career, "4. Gender socialization appears to impact significantly upon the experiences of the male second career teachers. This surfaces both in the expectations that these men set for themselves and the way in which they are perceived by others."[23] Men who have established themselves personally and professionally who then opt for a second career as elementary teachers place certain constructs upon themselves as well as having some placed upon them.

Summary and Conclusions

Men teachers on the elementary level are a statistical rarity and represent a sociological phenomenon. Studies place the number at about twelve per-cent of the elementary teaching workforce. The twelve per-cent is skewed to the upper end of the defined elementary school. In other words, finding twelve per-cent in the elementary schools between grades Pre-Kindergarten to grade 2 is not remotely expected. Chief among the reasons for the gender disparity is hiring discrimination. This bias may take overt or covert form, is rooted in a sociological and historic mindset, and may be improper, unethical, and illegal as a hiring practice in the public sector. Recruiting, hiring, and retaining personnel on the premise that gender is a predicate is wrong.

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[22] Allan, "The Persistent Fewness of Elementary Teachers: Hypotheses From Their Experiences," 13.
[23] Helen Freidus, "Men In A Women's World: A Study of Male Second Career Teachers in Elementary Schools," Paper presented at the Annual Meeting of the American Educational Research Association (San Francisco, Ca.) April 20-24, 1992, 25-26.

Aside from the external bias factors men must assume a portion of the blame for their weak representation in numbers as elementary school teachers. They have not entered preparatory programs as elementary education majors and, thus, have not been part of the hiring pool to any great degree. Fewer prospective teachers in the last ten years have entered colleges majoring in education as they have opted for the promise of higher paying private sector employment especially in computer related industries. Men have not challenged the "power" and "control" that women have had in the field. A contributing reason may be solely unto men as they have had conflicting internal queries as to their *place* within the elementary school setting. As child abuse and criminal sexual behavior has received considerable public attention within the last decade, men have chosen not to have their motives, however innocent and altruistic, questioned by others who may view the "nurturing" of young children as incompatible with preconceived stereotypes. Some men do not envision the elementary school as a place to receive recognition and status from within the profession. Additionally some men struggle with the concept of entering the field of elementary education and their own sense of masculinity.

Notes of Decisions

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1. Personnel files

Even if assistant professor were viewed as party requesting admission of peer review materials in sex discrimination complaint brought against university, collective bargaining agreement between university and university professors which restricted access to personnel files to named persons could not be used to bar use of peer review materials as evidence; contractual grievance procedures cannot deprive one of separate statutory right under law against discrimination. Dixon v. Rutgers, The State University of New Jersey, 110 N.J. 432, 541 A.2d 1046 (1988).

2. Privacy rights

Even if university had standing to assert privacy rights of male professors in their promotion peer review ma... state's strong public policy agai... crimination outweighed those p... interests so that disclosure of pro... packets in civil rights action comm... by female professor could not be d... on ground disclosure would violat... vacy rights of male professors. Di... Rutgers, The State University of ... Jersey, 110 N.J. 432, 541 A.2d ... (1988).

3. Confidentiality

Although peer review materials ... in tenure and promotion decisio... university are discoverable in confi... antidiscrimination sui... should issue appropriate protectiv... does to ensure that discovery of ... dential materials is not unnecess... brought and that access to such m... als is limited. Dixon v. Rutgers, ... State University of New Jersey, 110 ... 432, 541 A.2d 1046 (1988).

10:5–12. Unlawful employment practice or unlawful discrimination

It shall be unlawful employment practice, or, as the case may ... an unlawful discrimination:

a. For an employer, because of the race, creed, color, nati... origin, ancestry, age, marital status, affectional or sexual ori... tion, sex or atypical hereditary cellular or blood trait of any indi... ual, or because of the liability for service in the Armed Force... the United States or the nationality of any individual, to refus... hire or employ or to bar or to discharge or require to retire, un... justified by lawful considerations other than age, from employm... such individual or to discriminate against such individual in c... pensation or in terms, conditions or privileges of employm... provided, however, it shall not be an unlawful employment prac... to refuse to accept for employment an applicant who has receiv... notice of induction or orders to report for active duty in the ar... forces; provided further that nothing herein contained shall ... construed to bar an employer from refusing to accept for emp... ment any person on the basis of sex in those certain circumstan... where sex is a bona fide occupational qualification, reason... necessary to the normal operation of the particular busine... enterprise; provided further that nothing herein contained shall ... construed to bar an employer from refusing to accept for emp... ment or to promote any person over 70 years of age; pro...

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...ther that it shall not be an unlawful employment practice for a ... exclusively social or fraternal to use club membership as a ...iform qualification for employment, or for a religious association ...organization to utilize religious affiliation as a uniform qualifica... in the employment of clergy, religious teachers or other em...yees engaged in the religious activities of the association or ...anization, or in following the tenets of its religion in establishing ...d utilizing criteria for employment of an employee; provided ...ther that it shall not be an unlawful employment practice to ...quire the retirement of any employee who, for the two-year ...riod immediately before retirement, is employed in a bona fide ...ecutive or a high policy-making position, if that employee is ...titled to an immediate, non-forfeitable annual retirement benefit ...om a pension, profit sharing, savings or deferred retirement plan, ...any combination of those plans, of the employer of that employ... which equals in the aggregate at least $27,000.00; and provided ...ther that an employer may restrict employment to citizens of the ...ited States where such restriction is required by federal law or is ...herwise necessary to protect the national interest.

For the purposes of this subsection, a "bona fide executive" is a ... level employee who exercises substantial executive authority ...r a significant number of employees and a large volume of ...siness. A "high policy-making position" is a position in which a ...son plays a significant role in developing policy and in recom...nding the implementation thereof.

b. For a labor organization, because of the race, creed, color, ...tional origin, ancestry, age, marital status, affectional or sexual ...entation or sex of any individual, or because of the liability for ...vice in the Armed Forces of the United States or nationality of ... individual, to exclude or to expel from its membership such ...ividual or to discriminate in any way against any of its mem...rs, against any applicant for, or individual included in, any ...prentice or other training program or against any employer or ... individual employed by an employer; provided, however, that ...thing herein contained shall be construed to bar a labor organiza...n from excluding from its apprentice or other training programs ... person on the basis of sex in those certain circumstances where ...s is a bona fide occupational qualification reasonably necessary ...the normal operation of the particular apprentice or other ...ining program.

c. For any employer or employment agency to print or circulate ...cause to be printed or circulated any statement, advertisement or ...blication, or to use any form of application for employment, or ...make an inquiry in connection with prospective employment,

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which expresses, directly or indirectly, any limitation, specific or discrimination as to race, creed, color, national origin, ance age, marital status, affectional or sexual orientation or se liability of any applicant for employment for service in the Ar Forces of the United States, or any intent to make any limitation, specification or discrimination, unless based upo bona fide occupational qualification.

d. For any person to take reprisals against any person bec he has opposed any practices or acts forbidden under this a because he has filed a complaint, testified or assisted in any ceeding under this act.

e. For any person, whether an employer or an employee or to aid, abet, incite, compel or coerce the doing of any of the forbidden under this act, or to attempt to do so.

f. For any owner, lessee, proprietor, manager, superintende agent, or employee of any place of public accommodation dir or indirectly to refuse, withhold from or deny to any person an the accommodations, advantages, facilities or privileges thereo to discriminate against any person in the furnishing thereof directly or indirectly to publish, circulate, issue, display, pos mail any written or printed communication, notice, or adver ment to the effect that any of the accommodations, advanta facilities, or privileges of any such place will be refused, with from, or denied to any person on account of the race, creed, c national origin, ancestry, marital status, sex, affectional or s orientation or nationality of such person, or that the patrona custom thereat of any person of any particular race, creed, c national origin, ancestry, marital status, sex, affectional or s orientation or nationality is unwelcome, objectionable or no ceptable, desired or solicited, and the production of any written or printed communication, notice or advertisement, porting to relate to any such place and to be made by any ow lessee, proprietor, superintendent or manager thereof, shall presumptive evidence in any action that the same was authorized such person; provided, however, that nothing contained h shall be construed to bar any place of public accommodation w is in its nature reasonably restricted exclusively to individual one sex, and which shall include but not be limited to any sum camp, day camp, or resort camp, bathhouse, dressing room, s ming pool, gymnasium, comfort station, dispensary, clinic or h tal, or school or educational institution which is restricted e sively to individuals of one sex, from refusing, withholding fro denying to any individual of the opposite sex any of the accom dations, advantages, facilities or privileges thereof on the ba

provided further that the foregoing limitation shall not apply any restaurant as defined in R.S. 33:1-1 or place where alcoholic erages are served.

For the owner, lessee, sublessee, assignee or managing agent or other person having the right of ownership or possession of the right to sell, rent, lease, assign, or sublease any real property part or portion thereof, or any agent or employee of any of these:

1) To refuse to sell, rent, lease, assign, or sublease or otherwise deny to or withhold from any person or group of persons any l property or part or portion thereof because of the race, creed, lor, national origin, ancestry, marital status, sex, affectional or ual orientation or nationality of such person or group of per ns;

2) To discriminate against any person or group of persons be se of the race, creed, color, national origin, marital status, sex or ectional or sexual orientation of such person or group of persons the terms, conditions or privileges of the sale, rental or lease of real property or part or portion thereof or in the furnishing of ilities or services in connection therewith; or

3) To print, publish, circulate, issue, display, post or mail, or se to be printed, published, circulated, issued, displayed, posted mailed any statement, advertisement, publication or sign, or to any form of application for the purchase, rental, lease, assign nt or sublease of any real property or part or portion thereof, or make any record or inquiry in connection with the prospective rchase, rental, lease, assignment, or sublease of any real proper or part or portion thereof which expresses, directly or indirectly, limitation, specification or discrimination as to race, creed, lor, national origin, ancestry, marital status, sex, affectional or ual orientation or nationality or any intent to make any such itation, specification or discrimination, and the production of such statement, advertisement, publicity, sign, form of applica n, record, or inquiry purporting to be made by any such person ll be presumptive evidence in any action that the same was horized by such person; provided, however, that nothing con ned in this subsection shall be construed to bar any person from ining to sell, rent, lease, assign or sublease or from advertising recording a qualification as to sex for any room, apartment, flat dwelling or residential facility which is planned exclusively for occupied exclusively by individuals of one sex to any individual e opposite sex on the basis of sex.

For any real estate broker, real estate salesman or employee gent thereof:

SUPPLEMENT 1·2 NJ LAD

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(1) To refuse to sell, rent, assign, lease or sublease, or offe[redacted] sale, rental, lease, assignment, or sublease any real property or[redacted] or portion thereof to any person or group of persons or to refus[redacted] negotiate for the sale, rental, lease, assignment, or sublease of[redacted] real property or part or portion thereof to any person or grou[redacted] persons because of the race, creed, color, national origin, ance[redacted] marital status, sex, affectional or sexual orientation or nationa[redacted] of such person or group of persons, or to represent that any[redacted] property or portion thereof is not available for inspection,[redacted] rental, lease, assignment, or sublease when in fact it is so availa[redacted] or otherwise to deny or withhold any real property or any par[redacted] portion of facilities thereof to or from any person or grou[redacted] persons because of the race, creed, color, national origin, ance[redacted] marital status, sex, affectional or sexual orientation or nationa[redacted] of such person or group of persons;

(2) To discriminate against any person because of his race, c[redacted] color, national origin, ancestry, marital status, sex or affectional[redacted] sexual orientation in the terms, conditions or privileges of the[redacted] rental, lease, assignment or sublease of any real property or pa[redacted] portion thereof or in the furnishing of facilities or service[redacted] connection therewith; or

(3) To print, publish, circulate, issue, display, post, or mail[redacted] cause to be printed, published, circulated, issued, displayed, po[redacted] or mailed any statement, advertisement, publication or sign, o[redacted] use any form of application for the purchase, rental, lease, ass[redacted] ment, or sublease of any real property or part or portion there[redacted] to make any record or inquiry in connection with the prospe[redacted] purchase, rental, lease, assignment, or sublease of any real prop[redacted] or part or portion thereof which expresses, directly or indire[redacted] any limitation, specification or discrimination as to race, c[redacted] color, national origin, ancestry, marital status, sex, affection[redacted] sexual orientation or nationality or any intent to make any[redacted] limitation, specification or discrimination, and the productio[redacted] any such statement, advertisement, publicity, sign, form of ap[redacted] tion, record, or inquiry purporting to be made by any such p[redacted] shall be presumptive evidence in any action that the same[redacted] authorized by such person; provided, however, that nothing[redacted] tained in this subsection h. shall be construed to bar any p[redacted] from refusing to sell, rent, lease, assign or sublease or from a[redacted] tising or recording a qualification as to sex for any room,[redacted] ment, flat in a dwelling or residential facility which is p[redacted] exclusively for and occupied exclusively by individuals of one[redacted] any individual of the opposite sex on the basis of sex.

For any person, bank, banking organization, mortgage compa-[redacted] insurance company or other financial institution, lender or[redacted] dit institution to whom application is made for any loan or[redacted] ension of credit including but not limited to an application for[redacted] ancial assistance for the purchase, acquisition, construction, re-[redacted] bilitation, repair or maintenance of any real property or part or[redacted] rtion thereof or any agent or employee thereof:

1) To discriminate against any person or group of persons be-[redacted] se of the race, creed, color, national origin, ancestry, marital[redacted] tus, sex, affectional or sexual orientation or nationality of such[redacted] son or group of persons or of the prospective occupants or[redacted] ants of such real property or part or portion thereof, in the[redacted] nting, withholding, extending, modifying or renewing, or in the[redacted] ng of the rates, terms, conditions or provisions of any such loan,[redacted] ension of credit or financial assistance or in the extension of[redacted] rices in connection therewith; or

2) To use any form of application for such loan, extension of[redacted] dit or financial assistance or to make record or inquiry in[redacted] nection with applications for any such loan, extension of credit[redacted] financial assistance which expresses, directly or indirectly, any[redacted] itation, specification or discrimination as to race, creed, color,[redacted] tional origin, ancestry, marital status, sex, affectional or sexual[redacted] ntation or nationality or intent to make any such limitation,[redacted] cification or discrimination; unless otherwise required by law[redacted] regulation to retain or use such information.

For any person whose activities are included within the scope[redacted] his act to refuse to post or display such notices concerning the[redacted] hts or responsibilities of persons affected by this act as the[redacted] rney General may by regulation require.

For any real estate broker, real estate salesman or employee[redacted] gent thereof or any other individual, corporation, partnership,[redacted] organization, for the purpose of inducing a transaction for the[redacted] or rental of real property from which transaction such person[redacted] ny of its members may benefit financially, to represent that a[redacted] nge has occurred or will or may occur in the composition with[redacted] ect to race, creed, color, national origin, ancestry, marital[redacted] tus, sex, affectional or sexual orientation or nationality of the[redacted] ers or occupants in the block, neighborhood or area in which[redacted] eal property is located, and to represent, directly or indirectly,[redacted] this change will or may result in undesirable consequences in[redacted] block, neighborhood or area in which the real property is[redacted] ed, including, but not limited to the lowering of property[redacted], an increase in criminal or antisocial behavior, or a decline[redacted] quality of schools or other facilities.

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l. For any person to refuse to buy from, sell to, lease from o license, contract with, or trade with, provide goods, service information to, or otherwise do business with any other perso the basis of the race, creed, color, national origin, ancestry, age affectional or sexual orientation, marital status, liability for ser in the Armed Forces of the United States, or nationality of other person or of such other person's spouse, partners, memb stockholders, directors, officers, managers, superintendents, age employees, business associates, suppliers, or customers. This section shall not prohibit refusals or other actions (1) pertainin employee-employer collective bargaining, labor disputes, or unf labor practices, or (2) made or taken in connection with a prote unlawful discrimination or unlawful employment practices.

m. For any person to:

(1) Grant or accept any letter of credit or other document wh evidences the transfer of funds or credit, or enter into any contr for the exchange of goods or services, where the letter of cre contract, or other document contains any provisions requiring person to discriminate against or to certify that he, she or it has dealt with any other person on the basis of the race, creed, co national origin, ancestry, age, sex, affectional or sexual orientati marital status, liability for service in the Armed Forces of United States, or nationality of such other person or of such o person's spouse, partners, members, stockholders, directors, cers, managers, superintendents, agents, employees, business as ates, suppliers, or customers.

(2) Refuse to grant or accept any letter of credit or other d ment which evidences the transfer of funds or credit, or refus enter into any contract for the exchange of goods or services, on ground that it does not contain such a discriminatory provisio certification.

The provisions of this subsection shall not apply to any lett credit, contract, or other document which contains any provi pertaining to employee-employer collective bargaining, a labor pute or an unfair labor practice, or made in connection with protest of unlawful discrimination or an unlawful employ practice, if the other provisions of such letter of credit, contrac other document do not otherwise violate the provisions of subsection.

n. For any person to aid, abet, incite, compel, coerce, or in the doing of any act forbidden by subsections *l.* and m. of section 11 of P.L.1945, c. 169 (C. 10:5–12), or to attempt, conspire to do so. Such prohibited conduct shall include, bu be limited to:

) Buying from, selling to, leasing from or to, licensing, con- ting with, trading with, providing goods, services, or informa- to, or otherwise doing business with any person because that on does, or agrees or attempts to do, any such act or any act hibited by this subsection n.; or

) Boycotting, commercially blacklisting or refusing to buy , sell to, lease from or to, license, contract with, provide goods, ices or information to, or otherwise do business with any on because that person has not done or refuses to do any such or any act prohibited by this subsection n.; provided that this ection n. shall not prohibit refusals or other actions either aining to employer collective bargaining, labor dis- s, or unfair labor practices, or made or taken in connection a protest of unlawful discrimination or unlawful employment tices.

45, c. 169, p. 594, § 11. Amended by L.1949, c. 11, p. 42, § 7; L.1951, p. 423, § 6; L.1961, c. 106, p. 687, § 4; L.1962, c. 37, § 7; L.1962, c. § 1; L.1966, c. 17, § 4; L.1970, c. 80, § 14, eff. June 2, 1970; L.1973, c. § 1, eff. Nov. 29, 1973; L.1975, c. 35, § 1, eff. March 13, 1975; L.1977, § 2, eff. May 19, 1977; L.1977, c. 122, § 2, eff. June 6, 1977; L.1979, § 2, eff. May 15, 1979; L.1981, c. 185, § 2, eff. June 22, 1981; L.1985, § 3, eff. Oct. 1, 1985; L.1991, c. 519, § 8, eff. Jan. 19, 1992. in enrolled bill.

Historical and Statutory Notes

ication:
rmerly § 18:25–12. Renumbered in

Legislation
979, c. 86, § 2, made use of "nation- as basis for decision ground for ful employment practice or unlaw- iscrimination throughout section; d employer to restrict employ- to citizens of United States under n conditions in proviso at end of a.; and added subsecs. *l* to n.

Legislation
981, c. 185, § 2, inserted, in subsec. atypical hereditary cellular or trait".

Legislation
985, c. 73, § 3, in subsec. a., includ- quiring a person to retire, unless justified by lawful reasons other than age, as an unlawful employment practice; provided that employers were not barred from refusing to hire or promote persons over age 70; and included provisions relating to meaning and retirement of "bona fide executives".

1991 Legislation

L.1991, c. 519, § 8, inserted "affectional or sexual orientation", wherever appearing and in subsec. n., substituted reference to "section 11 of P.L.1945, c. 169 (C. 10:5–12)" for "this act".

Statements: Committee statement to Senate, No. 3758—L.1991, c. 519, see § 10:5–3.

Governor's statement to Assembly, No. 1042—L.1985, c. 73, see § 10:3–1.

Committee Statement to Senate, No. 1608—L.1977, c. 122, see § 10:5–5.

Cross References

mination in renting on basis of source of income or children in family, see § 2A:42–100 et seq.
mination in employment on public works, see § 10:2–1 et seq.

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— Health benefits

Section of Title VII [42 U.S.C.A. 2000e-1] providing that the statute shall not apply to educational institution with respect to employment of individuals of particular religion to perform work connected with carrying on by such educational institution of its activities did not exempt religious school from requirement that it provide female employees with health insurance benefits allowed male employees. E.E.O.C. v. Fremont Christian School, D.C.Cal.1984, 609 F.Supp. 344, affirmed 781 F.2d 1362.

15. Foreign corporation exemption

Employer's foreign subsidiary was not an employer within the meaning of Title VII of the Civil Rights Act of 1964, in absence of any evidence that Congress intended Title VII to apply to employment practices of foreign corporations outside the United States. Lavrov v. NCR Corp., D.C.Ohio 1984, 600 F.Supp. 923.

§ 2000e-2. Unlawful employment practices

(a) Employer practices

It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) Employment agency practices

It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) Labor organization practices

It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for

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employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) Training programs

It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Businesses or enterprises with personnel qualified on basis of religion, sex, or national origin; educational institutions with personnel of particular religion

Notwithstanding any other provision of this subchapter, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(f) Members of Communist Party or Communist-action or Communist-front organizations

As used in this subchapter, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other

organization required to r
nist-front organization by
Control Board pursuant t
1950 [50 U.S.C.A. § 781 e

(g) National security

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**(h) Seniority or merit sy
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unlawful employment prac
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the wages or compensatio
employer if such different
section 206(d) of Title 29.

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Equal Employment Opportunity is THE LAW

Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under the following Federal authorities.

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN
Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment

INDIVIDUALS WITH HANDICAPS
Section 503 of the Rehabilitation Act of 1973, as amended, prohibits job discrimination because of handicap and requires affirmative action to employ and advance in employment qualified individuals with handicaps who, with reasonable accommodation, can perform the essential functions of a job.

VIETNAM ERA AND SPECIAL DISABLED VETERANS
38 U.S.C. 4212 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 prohibits job discrimination and requires affirmative action to employ and advance in employment qualified Vietnam er veterans and qualified special disabled veterans.
Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:
The Office of Federal Contract Compliance Programs (OFCCP), Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 or call (202) 523-9368, or an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Dept. of Labor.

Private Employment, State and Local Governments, Educational Institutions

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under the following Federal laws.

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN
Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex or national origin.

DISABILITY
The Americans with Disabilities Act of 1990, as amended, protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability. The law also requires that covered entities provide qualified applicants and employees with disabilities with reasonable accommodations that do not impose undue hardship.

AGE
The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination on the basis of age in hiring, promotion, discharge, compensation, terms, conditions or privileges of employment.

SEX (WAGES)
In addition to sex discrimination prohibited by Title VII of the Civil Rights Act (see above), the Equal Pay Act of 1963, as amended, prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.
Retaliation against a person who files a charge of discrimination, participates in an investigation, or opposes an unlawful employment practice is prohibited by all of these Federal laws.
If you believe that you have been discriminated against under any of the above laws, you immediately should contact:
The U.S. Equal Employment Opportunity Commission (EEOC), 1801 L Street, N.W., Washington, D.C.20507 or an EEOC field office by calling toll free (800) 669-4000. For individuals with hearing impairments, EEOC's toll free TDD number is (800) 669-6820.

Programs or Activities Receiving Federal Financial Assistance

RACE, COLOR, NATIONAL ORIGIN, SEX
In addition to the protection of Title VII of the Civil Rights Act of 1964, Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal assistance.

INDIVIDUALS WITH HANDICAPS
Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of a disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with reasonable accommodation, can perform the essential functions of a job.
If you believe you have been discriminated against in a program of any institution which receives Federal assistance, you should contact immediately the Federal agency providing such assistance.

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Bibliography/References

Allan, Jim. "Anomaly as Exemplar: The Meanings of Role-Modeling for Men Elementary Teachers." Unpublished paper.1994.

Allan, Jim. "The Persistent Fewness of Men Elementary School Teachers: Hypothesis From Their Experiences." Paper presented at the Annual Meeting of The Midwest Sociological Society. Iowa. 1997.

Coulter, Rebecca Priegart and Margaret McNay. "Exploring Men's Experiences as Elementary School Teachers." Canadian Journal of Education 18, no.4 (Fall 1993).

Elkouri, Frank. How Arbitration Works 5th ed.Washington, D.C.: Bureau of National Affairs, 1997.

Freidus, Helen. "Men In A Women's World: A Study of Male Second Career Teachers in Elementary Schools." Paper presented at the Annual Meeting of the American Education Research Association. San Francisco, Ca. April 20-24, 1992.

Galbraith, Michael. "Understanding Career Choices of Men in Elementary Education." Journal of Research 85, no.4 (March-April 1992).

King, James R. "Uncommon Caring: Primary Males and Implicit Judgements." Unpublished paper. 1994.

N.J.S.A. 10:5-12 et seq.

Seifert, Kelvin. "Career Experiences of Men Who Teach Young Children." Paper presented at the Annual Meeting of the American Education Research Association. 68th New Orleans, La. April 23-27, 1984

42 U.S.C.A. s2000e-2.